



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

Refer to:

OSB2001-0217-PC-RI

December 21, 2001

Ms. Elaine Zielinski
State Director, OR/WA
USDI Bureau of Land Management
1515 SW Fifth Avenue
Portland, Oregon 97201

Mr. Harv Forsgren
Regional Forester, Region 6
USDA Forest Service
333 SW First Avenue
Portland, Oregon 97208-3623

Re: Re-Issuance of Incidental Take Statement for Programmatic Biological Opinion Covering
U.S. Forest Service and Bureau of Land Management Administrative Units Within the
Oregon Coast Range Province, Oregon

Dear Ms. Zielinski and Mr. Forsgren:

This responds to your August 28, 2001 letter requesting an extension of the incidental take statement (ITS) for the Oregon Coast Range Province programmatic biological opinion (Opinion) issued by the National Marine Fisheries Service (NMFS) on June 4, 1999 (OSB1999-0012). The Opinion covers the Oregon Coast (OC) coho salmon (*Oncorhynchus kisutch*) evolutionarily significant unit (ESU). OC coho salmon were listed as threatened under the Endangered Species Act (ESA) on August 10, 1998 (63 FR 42587); critical habitat was designated on February 16, 2000 (65 FR 7764) and protective regulations were issued on July 10, 2000 (65 FR 42422). The programmatic actions described in the subject Opinion were considered *likely to adversely affect* OC coho salmon. In a June 5, 2000 letter (OSB2000-0124) to you, NMFS extended the ITS for the above referenced Opinion. That extension expired on September 30, 2001. However, on September 12, 2001, prior to the ITS expiration, Oregon Federal District Judge Michael Hogan set aside the OC coho salmon listing (*Alsea Valley Alliance v. Evans*), thus rendering the request for an extension unnecessary. On December 14, 2001, the U.S. 9th Circuit Court of Appeals issued a stay of Judge Hogan's *Alsea Valley Alliance v. Evans* decision pending the Court's decision of an intervenor's appeal. Therefore, the previously issued listing decision, critical habitat designation, and protective regulations were reinstated as of December 14, 2001. NMFS finds it appropriate to again extend the ITS from this Opinion until such time that a new biological opinion covering these activities is issued, but for a period not to exceed September 30, 2002.

Because the agencies have been working collaboratively to refine terms and conditions to minimize incidental take from programmatic activities, NMFS initially chose to limit the ITS in the Opinion to a one year period so that they could be reviewed and improved, if necessary, at the end of the one year period. The ITS required that specific project monitoring data be



collected by the action agencies and provided to NMFS for review prior to extending the ITS for a subsequent term.

Included with your August 28, 2001 letter was a summary of actions, by project category, that have been or are projected to be implemented between June/July 2000 and September 2001. Also included were projected actions within each 5th field watershed for the period October 1, 2001 to September 30, 2002. Those data are incorporated herein by reference. NMFS has reviewed the monitoring and information submitted by the Federal agencies requesting an extension of the ITS in the Opinion for actions affecting the OC coho salmon ESU, and critical habitat designated on U.S. Forest Service and Bureau of Land Management administered lands in the Oregon Coast Range Province. The NMFS participated in several Level I team and agency-specific discussions relative to Opinion implementation, monitoring requirements and Opinion compliance, and agree that the action agencies have complied with the requirements of the Opinion and remain within the scope of action effects described within the Opinion.

Based on the information provided by the action agencies, NMFS has determined that reinitiation of consultation is unnecessary at this time because the scope of the programmatic actions and their expected effects on the OC coho salmon ESU and designated critical habitat remain within the scope of the Opinion, and all other requirements of the Opinion have been met.

The NMFS is aware that new information is being developed that will lead to refinement of terms and conditions to further minimize the likelihood of incidental take from the subject programmatic activities. This process is currently underway, and will likely take several months to complete.

NMFS finds it appropriate to extend the ITS from the Opinion until such time that a new Opinion covering these activities is issued, but for a period not to exceed September 30, 2002 (the end of the fiscal year was chosen because this is the normal annual reporting time for the action agencies). NMFS expects the action agencies to reinitiate consultation on these programmatic activities prior to May 8, 2002.

Please direct any questions regarding this consultation to Michael Tehan of my staff in the Oregon Habitat Branch at 503.231.2224.

Sincerely,

f.1 Michael R Crouse

D. Robert Lohn
Regional Administrator

cc: Gloria Brown, Siuslaw National Forest
Julia Dougan, Eugene BLM
Denis Williamson, Salem BLM